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## BOOK REVIEWS

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STUDIES IN THE POLICE POWER OF THE NATIONAL GOVERNMENT, by Robert Eugene Cushman. (Minneapolis: Minnesota Law Review, 1919-1920, pp. 289-319, 381-412, 452-483, 247-281, 402-440.)

One of the most important subjects in American constitutional law is the rapidly expanding "police power" of the federal government. Strictly speaking, it is not a police power at all in the sense that the States have authority "to secure and promote the public welfare", for Congress has no powers except those delegated by the Constitution. As Professor Cushman says:

"The enumeration of congressional powers in the Constitution does not include any general grant of authority to pass laws for the protection of the health, morals, or general welfare of the nation. It follows, then, that if Congress is to exercise a police power at all it must do so by a process something akin to indirection; that is, by using the powers which are definitely confided to it, for the purposes of the police power. If it would enter upon an ambitious program to protect public morals or safety or health or to promote public order, it must cloak its good works under its authority to tax, or to regulate commerce, or to control the mails, or the like, and say, 'By this authority we pass this law in the interest of the public welfare'. In short, Congress exercises a generous police power, not because that power is placed directly in its hands, but because it has the power to regulate commerce, to lay taxes, and to control the mails, and uses that authority for the broad purposes of the general welfare."

The present monograph by Professor Cushman is made up of five articles which originally appeared in the MINNESOTA LAW REVIEW, and it is a great convenience to have them together. The first three deal with the national police power under the commerce clause of the Constitution, one with the taxing power, and one with the postal clause. For the most part the ground has been well plowed, but it was done by different people, at different times, for different crops. Professor Cushman surveys the whole field and gives his attention not only to the decisions of the United States Supreme Court, but to congressional debates, and the opinions of everyone of importance who has written on the subjects he discusses. The author's industry has resulted in an encyclopaedic piece of work; his analysis is always acute, and the article on the use of the taxing power for purposes of congressional control is one of the best discussions of this interesting subject. It is the more timely also, because the Supreme Court now has before it the case involving the constitutionality of the tax on goods made by children. Will the court follow its wishes as evidenced by the interstate commerce decision<sup>1</sup> or will it hold the law constitutional and thus avoid the logical gymnastics which will be necessary if its previous decisions are to be explained away?<sup>2</sup>

L. R.

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<sup>1</sup> Hammer v. Dagenhart, 247 U. S. 251.

<sup>2</sup> McCray v. United States, 195 U. S. 27.